

2009 - 2010 LEGISLATURE

LRB-0376/P1

TJD:wlj:ph

In 1/14/09

Stays

RMR

DOA:.....Willing, BB0090 - Family care eligibility and expansion, disability ombudsman, intensive treatment program charge-backs, rule-making changes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Insert

DO NOT GEN

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

✓ HEALTH AND HUMAN SERVICES

✓ LONG-TERM CARE

Insert A ✓

This is a preliminary draft. An analysis will be provided in a subsequent version.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2 SECTION 1. 16.009 (2) (p) (intro.) of the statutes is amended to read:

3 16.009 (2) (p) (intro.) Employ staff within the classified service or contract with  
4 one or more organizations to provide advocacy services to potential or actual  
5 recipients of the family care benefit, as defined in s. 46.2805 (4), or of an integrated  
6 benefit, as defined in s. 46.2805 (7h), or their families or guardians. The board and

1 contract organizations under this paragraph shall assist these persons in protecting  
2 their rights under all applicable federal statutes and regulations and state statutes  
3 and rules. An organization with which the board contracts for these services may not  
4 be a provider, nor an affiliate of a provider, of long-term care services, a resource  
5 center under s. 46.283 or a care management organization under s. 46.284. For  
6 potential or actual recipients of the family care benefit or an integrated benefit,  
7 advocacy services required under this paragraph shall include all of the following:

8 **SECTION 2.** 16.009 (2) (p) 5. of the statutes is amended to read:

9 16.009 (2) (p) 5. Providing individual case advocacy services in administrative  
10 hearings and legal representation for judicial proceedings regarding family care  
11 services or benefits or an integrated benefit.

12 **SECTION 3.** 20.435 (7) (g) of the statutes is amended to read:

13 20.435 (7) (g) *Long-term care; county contributions.* All moneys received from  
14 counties as contributions to the family care program under s. 46.2805 to 46.2895, the  
15 ~~Pace program~~ Program of All-Inclusive Care for the Elderly, as described under s.  
16 ~~46.2805 (1) (a)~~ 46.2805 (9m), and the Wisconsin Partnership Program described  
17 under s. ~~46.2805 (1) (b)~~ 46.2805 (15), to fund services under the family care benefit  
18 under s. 46.284 (5) and services under the Pace Program of All-Inclusive Care for the  
19 Elderly and the Wisconsin Partnership programs Program.

20 **SECTION 4.** 46.2803 (2) of the statutes is amended to read:

21 46.2803 (2) Notwithstanding s. 46.27 (7), a county in which a care management  
22 organization is operating pursuant to a contract under s. 46.284 (2) or a county in  
23 which a program described under s. ~~46.2805 (1) (a) or (b)~~ 46.2805 (9m) or (15) is  
24 administered may use funds appropriated under 20.435 (7) (bd) and allocated to the  
25 county under s. 46.27 (7) to provide community mental health or substance abuse

1 services and supports for persons with mental illness or persons in need of services  
2 or supports for substance abuse and to provide services under the Family Support  
3 Program under s. 46.985.

4 **SECTION 5.** 46.2805 (1) (intro.) of the statutes is renumbered 46.2805 (1) and  
5 amended to read:

6 46.2805 (1) “Care management organization” means an entity that is certified  
7 as meeting the requirements for a care management organization under s. 46.284 (3)  
8 and that has a contract under s. 46.284 (2). ~~“Care management organization” does~~  
9 ~~not mean an entity that contracts with the department or a contract to operate one~~  
10 ~~of the following:~~ to provide the family care benefit, an integrated benefit, or both.

11 **SECTION 6.** 46.2805 (1) (a) of the statutes is repealed.

12 **SECTION 7.** 46.2805 (1) (b) of the statutes is repealed.

13 **SECTION 8.** 46.2805 (7h) of the statutes is created to read:

14 46.2805 (7h) “Integrated benefit” means financial assistance for long-term  
15 care and support items, along with financial assistance for either acute or primary  
16 medical care or both for an enrollee.

17 **SECTION 9.** 46.2805 (9m) of the statutes is created to read:

18 46.2805 (9m) “Program of All-Inclusive Care for the Elderly” means the  
19 program operated under 42 USC 1395eee or 1396u-4 providing an integrated  
20 benefit.

21 **SECTION 10.** 46.2805 (15) of the statutes is created to read:

22 46.2805 (15) “Wisconsin Partnership Program” means a Medical Assistance  
23 demonstration program providing an integrated benefit.

\*\*\*\*NOTE: Please confirm whether this is the appropriate way to refer to the  
Wisconsin Partnership Program.

1           **SECTION 11.** 46.281 (1d) of the statutes is amended to read:

2           46.281 **(1d)** WAIVER REQUEST. The department shall request from the secretary  
3 of the federal department of health and human services any waivers of federal  
4 medicaid laws necessary to permit the use of federal moneys to provide the family  
5 care benefit or an integrated benefit to recipients of medical assistance. The  
6 department shall implement any waiver that is approved and that is consistent with  
7 ss. 46.2805 to 46.2895. Regardless of whether a waiver is approved, the department  
8 may implement operation of resource centers, care management organizations, and  
9 the family care benefit, and an integrated benefit.

\*\*\*\*NOTE: Would you like to repeal s. 46.281 (1d) as obsolete since the waiver has  
been obtained and implemented?

10          **SECTION 12.** 46.281 (1g) (a) of the statutes is amended to read:

11          46.281 **(1g)** (a) Subject to par. (b), the department may contract with entities  
12 as provided under s. 46.283 (2) to provide the services under s. 46.283 (3) and (4) as  
13 resource centers in any geographic area in the state, and may contract with entities  
14 as provided under s. 46.284 (2) to administer the family care benefit, an integrated  
15 benefit, or both as care management organizations in any geographic area in the  
16 state.

17          **SECTION 13.** 46.281 (1g) (b) of the statutes is amended to read:

18          46.281 **(1g)** (b) If the department proposes to contract with entities to  
19 administer the family care benefit or an integrated benefit in geographic areas in  
20 which, in the aggregate, resides more than 29 percent of the state population that  
21 is eligible for the family care benefit or an integrated benefit, the department shall  
22 first notify the joint committee on finance in writing of the proposed contract. The  
23 notification shall include the contract proposal; and an estimate of the fiscal impact

1 of the proposed addition that demonstrates that the addition will be cost neutral,  
2 including startup, transitional, and ongoing operational costs and any proposed  
3 county contribution. The notification shall also include, for each county affected by  
4 the proposal, documentation that the county consents to administration of the family  
5 care benefit, an integrated benefit, or both in the county, the amount of the county's  
6 payment or reduction in community aids under s. 46.281 (4), and a proposal by the  
7 county for using any savings in county expenditures on long-term care that result  
8 from administration of the family care benefit or integrated benefit in the county.  
9 If the cochairpersons of the committee do not notify the department within 14  
10 working days after the date of the department's notification that the committee has  
11 scheduled a meeting for the purpose of reviewing the proposed contract, the  
12 department may enter into the proposed contract. If within 14 working days after  
13 the date of the department's notification the cochairpersons of the committee notify  
14 the department that the committee has scheduled a meeting for the purpose of  
15 reviewing the proposed contract, the department may enter into the proposed  
16 contract only if the committee approves the proposed contract or if the committee  
17 fails to act on the proposed contract within 59 working days after the date of the  
18 department's notification.

19 **SECTION 14.** 46.281 (1n) (a) of the statutes is amended to read:

20 46.281 **(1n)** (a) Prescribe and implement a per person monthly rate structure  
21 for costs of the family care benefit and an integrated benefit.

22 **SECTION 15.** 46.281 (1n) (b) 3. of the statutes is amended to read:

23 46.281 **(1n)** (b) 3. Conduct ongoing evaluations of managed care programs for  
24 provision of long-term care services that are funded by medical assistance, as  
25 defined in s. 46.278 (1m) (b), as to client access to services, the availability of client

1 choice of living and service options, quality of care, and cost-effectiveness. In  
2 evaluating the availability of client choice, the department shall evaluate the  
3 opportunity for a client to arrange for, manage, and monitor his or her family care  
4 benefit or integrated benefit directly or with assistance, as specified in s. 46.284 (4)  
5 (e).

6 **SECTION 16.** 46.281 (1n) (b) 4. of the statutes is amended to read:

7 46.281 (1n) (b) 4. Require that quality assurance and quality improvement  
8 efforts be included throughout ~~the long-term care system specified in ss. 46.2805 to~~  
9 ~~46.2895~~ family care benefit or integrated benefit services.

10 **SECTION 17.** 46.281 (1n) (c) of the statutes is amended to read:

11 46.281 (1n) (c) Require by contract that resource centers and care management  
12 organizations establish procedures under which an individual who applies for or  
13 receives the family care benefit or an integrated benefit may register a complaint or  
14 grievance and procedures for resolving complaints and grievances.

15 **SECTION 18.** 46.281 (1n) (e) of the statutes is amended to read:

16 46.281 (1n) (e) Contract with a person to provide the advocacy services  
17 described under s. 16.009 (2) (p) 1. to 5. to actual or potential recipients of the family  
18 care benefit or an integrated benefit who are under age 60 or to their families or  
19 guardians. The department may not contract under this paragraph with a county  
20 or with a person who has a contract with the department to provide services under  
21 s. 46.283 (3) and (4) as a resource center or to administer the family care benefit or  
22 an integrated benefit as a care management organization. The contract under this  
23 paragraph shall include as a goal that the provider of advocacy services provide one  
24 advocate for every ~~2,500~~ 3,500 individuals under age 60 who receive the family care  
25 or an integrated benefit. ~~The department shall allocate \$190,000 for the contract~~

1 under this paragraph in fiscal year 2007-08 and \$525,000 in each subsequent fiscal  
2 year.

3 SECTION 19. 46.2825 (2) (a) of the statutes is amended to read:

4 46.2825 (2) (a) Evaluate the performance of care management organizations  
5 and entities that operate a program described under s. 46.2805 (1) (a) or (b) in the  
6 committee's region with respect to responsiveness to recipients of their services,  
7 fostering choices for recipients, and other issues affecting recipients; and make  
8 recommendations based on the evaluation to the department and to the care  
9 management organizations and entities, as appropriate.

10 SECTION 20. 46.2825 (2) (c) of the statutes is amended to read:

11 46.2825 (2) (c) Monitor grievances and appeals made to care management  
12 organizations or entities that operate a program described under s. 46.2805 (1) (a)  
13 or (b) within the committee's region.

14 SECTION 21. 46.283 (1) (a) 1. of the statutes is amended to read:

15 46.283 (1) (a) 1. Whether to authorize one or more county departments under  
16 s. 46.21, 46.215, 46.22 or 46.23 or an aging unit under s. 46.82 (1) (a) 1. or 2. to apply  
17 to the department for a contract to operate a resource center and, if so, which to  
18 authorize and, what client group to serve, and whether to provide the family care  
19 benefit, an integrated benefit, or both.

20 SECTION 22. 46.283 (3) (f) of the statutes is amended to read:

21 46.283 (3) (f) Assistance to a person who is eligible for the family care benefit  
22 or an integrated benefit with respect to the person's choice of whether or not to enroll  
23 in a care management organization and, if so, which available care management  
24 organization would best meet his or her needs.

25 SECTION 23. 46.283 (4) (e) of the statutes is amended to read:

1           46.283 (4) (e) Provide information about the services of the resource center,  
2 including the services specified in sub. (3) (d), about assessments under s. 46.284 (4)  
3 (b) and care plans under s. 46.284 (4) (c) and about the family care benefit and an  
4 integrated benefit, if available in the area, to all older persons and persons with a  
5 physical disability who are residents of nursing homes, community-based  
6 residential facilities, adult family homes, and residential care apartment complexes  
7 in the area of the resource center.

8           **SECTION 24.** 46.283 (6) (a) 3. of the statutes is amended to read:

9           46.283 (6) (a) 3. An individual who has a financial interest in, or serves on the  
10 governing board of, a care management organization ~~or an organization that~~  
11 ~~administers a program described under s. 46.2805 (1) (a) or (b)~~ or a managed care  
12 program under s. 49.45 for individuals who are eligible to receive supplemental  
13 security income under 42 USC 1381 to 1383c, which serves any geographic area also  
14 served by a resource center, and the individual's family members, may not serve as  
15 members of the governing board of the resource center.

16           **SECTION 25.** 46.284 (1) (a) 1. of the statutes is amended to read:

17           46.284 (1) (a) 1. Whether to authorize one or more county departments under  
18 s. 46.21, 46.215, 46.22 or 46.23 or an aging unit under s. 46.82 (1) (a) 1. or 2. to apply  
19 to the department for a contract to operate a care management organization and, if  
20 so, which to authorize and, what client group to serve, and whether to provide the  
21 family care benefit, an integrated benefit, or both.

22           **SECTION 26.** 46.284 (1) (b) of the statutes is amended to read:

23           46.284 (1) (b) The governing body of a tribe or band or of the Great Lakes  
24 Inter-Tribal Council, Inc., may decide whether to authorize a tribal agency to apply  
25 to the department for a contract to operate a care management organization for tribal



1 members and, if so, which client group to serve and whether to provide the family  
2 care benefit, an integrated benefit, or both.

3 **SECTION 27.** 46.284 (2) (c) of the statutes is renumbered 46.284 (2) (c) (intro.)  
4 and amended to read:

5 46.284 (2) (c) (intro.) The department shall require, as a term of any contract  
6 with a care management organization under this section, ~~that~~ all of the following:

7 2. That the care management organization contract for the provision of  
8 long-term care services that are covered under the family care or integrated benefit  
9 with any community-based residential facility under s. 50.01 (1g), residential care  
10 apartment complex under s. 50.01 (1d), nursing home under s. 50.01 (3),  
11 intermediate care facility for the mentally retarded under s. 50.14 (1) (b), community  
12 rehabilitation program, home health agency under s. 50.49 (1) (a), provider of day  
13 services, or provider of personal care, as defined in s. 50.01 (4o), that agrees to accept  
14 the reimbursement rate that the care management organization pays under contract  
15 to similar providers for the same service and that satisfies any applicable quality of  
16 care, utilization, or other criteria that the care management organization requires  
17 of other providers with which it contracts to provide the same service.

18 **SECTION 28.** 46.284 (2) (c) 1. of the statutes is created to read:

19 46.284 (2) (c) 1. That the care management organization designate whether it  
20 provides the family care benefit, an integrated benefit, or both.

21 **SECTION 29.** 46.284 (2) (c) 3. of the statutes is created to read:

22 46.284 (2) (c) 3. That the care management organization contract for the  
23 provision of acute and primary care services covered under an integrated benefit  
24 with a provider that agrees to accept the reimbursement rate the care management  
25 organization pays under contract to similar providers for the same service and that

1 satisfies any applicable quality of care, utilization, or other criteria the care  
2 management organization requires of other providers with which it contracts to  
3 provide the same service.

4 **SECTION 30.** 46.284 (4) (a) of the statutes is amended to read:

5 46.284 (4) (a) Accept requested enrollment of any person who is entitled to the  
6 family care benefit and of any person <sup>for whom funding is available and</sup> who is eligible for the family care benefit ~~or an~~  
7 integrated benefit, whichever the care management organization is contracted to  
8 provide, and for whom funding is available. No care management organization may  
9 disenroll any enrollee, except under circumstances specified by the department by  
10 contract. No care management organization may encourage any enrollee to disenroll  
11 in order to obtain long-term care services under the medical assistance  
12 fee-for-service system. No involuntary disenrollment is effective unless the  
13 department has reviewed and approved it.

\*\*\*\*NOTE: Please note that I have treated only family care as an entitlement for certain individuals. I am presuming that an integrated benefit would not be an entitlement. If you would like to make an integrated benefit an entitlement I can make the change here and to s. 46.286 (3).

14 **SECTION 31.** 46.284 (4) (e) of the statutes is amended to read:

15 46.284 (4) (e) Provide, within guidelines established by the department, a  
16 mechanism by which an enrollee may arrange for, manage, and monitor his or her  
17 family care benefit or an integrated benefit directly or with the assistance of another  
18 person chosen by the enrollee. The care management organization shall provide  
19 each enrollee with a form on which the enrollee shall indicate whether he or she has  
20 been offered the option under this paragraph and whether he or she has accepted or  
21 declined the option. If the enrollee accepts the option, the care management  
22 organization shall monitor the enrollee's use of a fixed budget for purchase of services  
23 or support items from any qualified provider, monitor the health and safety of the

1 enrollee, and provide assistance in management of the enrollee's budget and services  
2 at a level tailored to the enrollee's need and desire for the assistance.

3 **SECTION 32.** 46.284 (4) (f) of the statutes is amended to read:

4 46.284 (4) (f) Provide, on a fee-for-service basis, case management services to  
5 persons who are functionally eligible but not financially eligible for the family care  
6 benefit or an integrated benefit.

7 **SECTION 33.** 46.284 (5) (a) of the statutes is amended to read:

8 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (gp),  
9 (im), (o), and (w) and (7) (b), (bd), and (g), the department shall provide funding on  
10 a capitated payment basis for the provision of services under this section.  
11 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is  
12 under contract with the department may expend the funds, consistent with this  
13 section, including providing payment, on a capitated basis, to providers of services  
14 under the family care benefit or an integrated benefit.

15 **SECTION 34.** 46.284 (5) (d) 4. of the statutes is amended to read:

16 46.284 (5) (d) 4. The requirement that a care management organization place  
17 funds in a risk reserve and maintain the risk reserve in an interest-bearing escrow  
18 account with a financial institution, as defined in s. 69.30 (1) (b), or invest funds as  
19 specified in s. 46.2895 (4) (j) 2. or 3. Moneys in the risk reserve or invested as specified  
20 in this subdivision may be expended only for the provision of services under this  
21 section. If a care management organization ceases participation under this section,  
22 the funds in the risk reserve or invested as specified in this subdivision, minus any  
23 contribution of moneys other than those specified in par. (c), shall be returned to the  
24 department. The department shall expend the moneys for the payment of  
25 outstanding debts to providers of family care benefit or integrated benefit services

1 and for the continuation of family care benefit and integrated benefit services to  
2 enrollees.

3 **SECTION 35.** 46.284 (5) (e) 1. of the statutes is amended to read:

4 46.284 (5) (e) 1. Subject to subd. 2., a care management organization may enter  
5 into contracts with providers of family care benefit or integrated benefit services and  
6 may limit profits of the providers under the contracts.

7 **SECTION 36.** 46.286 (title) of the statutes is amended to read:

8 **46.286 (title) Family care benefit and integrated benefit.**

9 **SECTION 37.** 46.286 (1) (title) of the statutes is repealed and recreated to read:

10 46.286 (1) (title) FAMILY CARE ELIGIBILITY.

11 **SECTION 38.** 46.286 (1) (a) (intro.) and 46.286 (1) (a) 1. (intro.) of the statutes  
12 are consolidated, renumbered 46.286 (1) (a) (intro.) and amended to read:

13 46.286 (1) (a) *Functional eligibility.* (intro.) A person is functionally eligible  
14 if any of the following applies the person's level of care need, as determined by the  
15 department or its designee: ~~1. (intro.) The person's level of care need,~~ is either of the  
16 following:

17 **SECTION 39.** 46.286 (1) (a) 1. a. of the statutes is renumbered 46.286 (1) (a) 1m.

18 **SECTION 40.** 46.286 (1) (a) 1. b. of the statutes is renumbered 46.286 (1) (a) 2m.

19 **SECTION 41.** 46.286 (1) (a) 2. (intro.) of the statutes is repealed.

20 **SECTION 42.** 46.286 (1) (a) 2. a. of the statutes is renumbered 46.286 (3) (b) 2.

21 a.

22 **SECTION 43.** 46.286 (1) (a) 2. b. of the statutes is renumbered 46.286 (3) (b) 2.

23 b.

24 **SECTION 44.** 46.286 (1) (a) 2. c. of the statutes is renumbered 46.286 (3) (b) 2.

25 c.

1           **SECTION 45.** 46.286 (1) (a) 2. d. of the statutes is renumbered 46.286 (3) (b) 2.

2           d.

3           **SECTION 46.** 46.286 (1) (a) 2. e. of the statutes is renumbered 46.286 (3) (b) 2.

4           e.

\*\*\*\*NOTE: Please note that I have left the eligibility portion so it addresses only family care. If you would like eligibility provisions for Pace and partnership added, please let me know.

5           **SECTION 47.** 46.286 (2) (a) of the statutes is amended to read:

6           46.286 (2) (a) A person who is determined to be financially eligible ~~under sub-~~  
7           ~~(1) (b) for family care, the Program of All-Inclusive Care for the Elderly, or the~~  
8           Wisconsin Partnership Program shall contribute to the cost of his or her care an  
9           amount that is calculated by the department or its designee after subtracting from  
10          the person's gross income, plus one-twelfth of countable assets, the deductions and  
11          allowances permitted by the department by rule.

12          **SECTION 48.** 46.286 (2) (b) of the statutes is amended to read:

13          46.286 (2) (b) Funds received under par. (a) shall be used by a care management  
14          organization to pay for services under the family care benefit, the Program of  
15          All-Inclusive Care for the Elderly, or the Wisconsin Partnership Program from  
16          whichever program the person is receiving services.

17          **SECTION 49.** 46.286 (2) (c) of the statutes is amended to read:

18          46.286 (2) (c) A person who is required to contribute to the cost of his or her care  
19          but who fails to make the required contributions is ineligible for the family care  
20          benefit, the Program of All-Inclusive Care for the Elderly, and the Wisconsin  
21          Partnership Program unless he or she is exempt from the requirement under rules  
22          promulgated by the department.

23          **SECTION 50.** 46.286 (3) (title) of the statutes is repealed and recreated to read:

1           46.286 (3) (title) FAMILY CARE ENTITLEMENT.

2           **SECTION 51.** 46.286 (3) (b) 2. of the statutes is renumbered 46.286 (3) (b) 2.  
3 (intro.) and amended to read:

4           46.286 (3) (b) 2. (intro.) If the contract between the care management  
5 organization and the department is canceled or not renewed. If this circumstance  
6 occurs, the department shall assure that enrollees continue to receive needed  
7 services through another care management organization or through the medical  
8 assistance fee-for-service system or any of the following programs specified under  
9 sub. (1) (a) 2. a. to d.:

10           **SECTION 52.** 46.286 (3m) of the statutes is amended to read:

11           46.286 (3m) INFORMATION ABOUT ENROLLEES. The department shall obtain and  
12 share information about family care benefit and integrated benefit enrollees as  
13 provided in s. 49.475.

14           **SECTION 53.** 46.286 (4) of the statutes is amended to read:

15           46.286 (4) DIVESTMENT; RULES. The department shall promulgate rules, which  
16 are substantially similar to applicable provisions under s. 49.453, relating to  
17 prohibitions on divestment of assets of persons who receive the family care benefit,  
18 ~~that are substantially similar to applicable provisions under s. 49.453 or an~~  
19 integrated benefit.

20           **SECTION 54.** 46.286 (5) of the statutes is amended to read:

21           46.286 (5) TREATMENT OF TRUST AMOUNTS; RULES. The department shall  
22 promulgate rules, which are substantially similar to applicable provisions under s.  
23 49.454, relating to treatment of trust amounts of persons who receive the family care  
24 benefit, ~~that are substantially similar to applicable provisions under s. 49.454 or an~~  
25 integrated benefit.

↓  
Insert 14-10

1           **SECTION 55.** 46.286 (6) of the statutes is amended to read:

2           **46.286 (6)** PROTECTION OF INCOME AND RESOURCES OF COUPLE FOR MAINTENANCE  
3           OF COMMUNITY SPOUSE; RULES. The department shall promulgate rules, which are  
4           substantially similar to applicable provisions under ss. 49.455 relating to protection  
5           of income and resources of couples for the maintenance of the spouse in the  
6           community with regard to persons who receive the family care benefit, ~~that are~~  
7           ~~substantially similar to applicable provisions under s. 49.455 or an integrated~~  
8           benefit.

9           **SECTION 56.** 46.286 (7) of the statutes is amended to read:

10           **46.286 (7)** RECOVERY OF FAMILY CARE BENEFIT PAYMENTS; RULES. The department  
11           shall promulgate rules, which are substantially similar to applicable provisions  
12           under ss. 49.496 <sup>and</sup> 49.497 relating to the recovery from persons who receive the  
13           family care benefit, including by liens and from estates, of correctly and incorrectly  
14           paid family care benefits and integrated benefits, ~~that are substantially similar to~~  
15           ~~applicable provisions under ss. 49.496 and 49.497~~ or an integrated benefit. <sup>benefits</sup>

16           **SECTION 57.** 46.287 (1) of the statutes is amended to read:

17           **46.287 (1)** DEFINITION. In this section, "client" means a person applying for  
18           eligibility for the family care benefit or an integrated benefit, an eligible person, or  
19           an enrollee.

20           **SECTION 58.** 46.287 (2) (a) 1. e. of the statutes is amended to read:

21           **46.287 (2)** (a) 1. e. Reduction of services or support items under the family care  
22           benefit or an integrated benefit.

23           **SECTION 59.** 46.287 (2) (a) 1. g. of the statutes is amended to read:

24           **46.287 (2)** (a) 1. g. Termination of the family care benefit or an integrated  
25           benefit.

US: This seems to be fixed in  
the electronic version.

1           **SECTION 60.** 46.287 (2) (a) 1. h. of the statutes is amended to read:

2           46.287 (2) (a) 1. h. Imposition of ineligibility for the family care benefit or an  
3 integrated benefit under s. 46.286 (4).

4           **SECTION 61.** 46.287 (2) (a) 1. k. of the statutes is amended to read:

5           46.287 (2) (a) 1. k. Recovery of family care benefit or integrated benefit  
6 payments under s. 46.286 (7).

7           **SECTION 62.** 46.288 (2) (intro.) of the statutes is amended to read:

8           46.288 (2) (intro.) Criteria and procedures for determining functional  
9 eligibility under s. 46.286 (1) (a), financial eligibility under s. 46.286 (1) (b), and cost  
10 sharing under s. 46.286 (2) (a). The rules for determining functional eligibility under  
11 s. 46.286 (1) (a) ~~1. a. 1m.~~ shall be substantially similar to eligibility criteria for receipt  
12 of the long-term support community options program under s. 46.27. Rules under  
13 this subsection shall include definitions of the following terms applicable to s. 46.286:

14           **SECTION 63.** 46.288 (2) (a) of the statutes is repealed.

15           **SECTION 64.** 46.288 (2) (b) of the statutes is repealed.

16           **SECTION 65.** 46.288 (2) (c) of the statutes is repealed.

17           **SECTION 66.** 46.2895 (1) (a) 1. b. of the statutes is amended to read:

18           46.2895 (1) (a) 1. b. Specifies the long-term care district's primary purpose,  
19 which shall be to operate, under contract with the department, a resource center  
20 under s. 46.283, or a care management organization under s. 46.284, ~~or a program~~  
21 ~~described under s. 46.2805 (1) (a) or (b).~~

22           **SECTION 67.** 46.2895 (1) (c) of the statutes is amended to read:

23           46.2895 (1) (c) A long-term care district may not operate a care management  
24 organization under s. 46.284 ~~or a program described under s. 46.2805 (1) (a) or (b)~~  
25 if the district operates a resource center under s. 46.283.



1           **SECTION 68.** 46.2895 (4) (b) of the statutes is amended to read:

2           46.2895 (4) (b) Adopt bylaws and policies and procedures for the regulation of  
3           its affairs and the conduct of its business. The bylaws, policies and procedures shall  
4           be consistent with ss. 46.2805 to 46.2895 and, if the long-term care district contracts  
5           with the department under par. (d) ~~or (dm)~~, with the terms of that contract.

6           **SECTION 69.** 46.2895 (4) (dm) of the statutes is repealed.

7           **SECTION 70.** 46.2895 (4) (e) of the statutes is amended to read:

8           46.2895 (4) (e) Provide services related to services available under the family  
9           care benefit or an integrated benefit, to older persons and persons with disabilities,  
10          in addition to the services funded under the contract with the department that is  
11          specified under par. (d).

12          **SECTION 71.** 46.2895 (6) (c) of the statutes is amended to read:

13          46.2895 (6) (c) Assure compliance with the terms of any contract with the  
14          department under sub. (4) (d) ~~or (dm)~~.

15          **SECTION 72.** 49.45 (30m) (am) of the statutes is renumbered 49.45 (30m) (am)

16          1.

17          **SECTION 73.** 49.45 (30m) (am) 2. of the statutes is created to read:

18          49.45 (30m) (am) 2. For individuals receiving the family care benefit under s.  
19          46.286, the care management organization that manages the family care benefit for  
20          the recipient shall pay the portion of the payment that is not covered by the federal  
21          government for services that are described under par. (a) 1. and are covered services  
22          under the family care benefit; the department shall pay the remainder of the portion  
23          of the payment that is not covered by the federal government.

24          **SECTION 74.** 49.475 (1) (e) 2. of the statutes is amended to read:

1           49.475 (1) (e) 2. An enrollee of family care, the Program of All-Inclusive Care  
2           for the Elderly, as defined in s. 46.2805 (9m), or the Wisconsin Partnership Program,  
3           as defined in s. 46.2805 (15).

4           **SECTION 75.** 50.49 (6m) (b) of the statutes is repealed.

5           **SECTION 76.** 50.49 (6m) (c) of the statutes is repealed.

6           **SECTION 77.** 51.437 (4rm) (d) of the statutes is created to read:

7           51.437 (4rm) (d) Notwithstanding pars. (a) to (c), for individuals receiving the  
8           family care benefit under s. 46.286, the care management organization that manages  
9           the family care benefit for the recipient shall pay the portion of the payment that is  
10          not covered by the federal government for services that are covered services under  
11          the family care benefit; the department shall pay the remainder of the portion of the  
12          payment that is not covered by the federal government.

13          \*\*\*\*NOTE: Is the addition of this paragraph sufficient? If you feel that each  
                paragraph under s. 51.437 (4rm) needs to be amended, please let me know more  
                specifically what services and payments need to be addressed.

(END)

✓  
Insert 18-13

1

INSERT A

Under current law, in certain counties, a person who meets certain functional and financial criteria and who is either a frail elder or a person who is at least 18 years old with a physical disability or a developmental disability is eligible for and may obtain the family care benefit. The family care benefit is financial assistance for long-term care. *may be eligible for the family care benefit if he or she does*

Also, currently, an individual ~~who does not~~ *he or she* meet the functional eligibility requirements for the family care benefit but ~~who~~ (1) has a condition that is expected to last at least 90 days or result in death within 12 months, (2) applies within 36 months after the date on which the family care benefit is available in the individual's county of residence, and (3) on the date the family care benefit became available in the individual's county of residence, was a resident of a nursing home or had been receiving long-term care services under certain programs for at least 60 days *may* be eligible for the family care benefit. This bill eliminates this provision allowing some individuals to be grandfathered into the family care benefit and requires that all individuals meet the functional eligibility requirements to be eligible for family care. *thus requiring*

Under current law, ~~certain individuals may be entitled to the family care benefit.~~ *period* DHS must ensure that care management organizations have the capacity to provide the family care benefit to all ~~entitled~~ *SET* persons in the county within 24 months. *who are entitled to it* The bill lengthens the ~~time~~ *period* for ensuring the entitled benefit to 36 months. \*

*This* Currently, a resource center in a county provides information on the family care benefit to certain individuals, provides functional and financial eligibility screenings to potential family care enrollees, and refers potential family care enrollees to a care management organization. A care management organization administers the family care benefit under a contract with DHS.

*Under* The bill allows care management organizations to administer either the Program of All-Inclusive Care for the Elderly (PACE) or the Wisconsin Partnership Program (Partnership) *or both* in place of or in addition to the family care benefit. PACE and Partnership offer an integrated benefit, ~~which is~~ *consisting of* financial assistance for long-term care and support items, along with financial assistance for either acute or primary medical care or both. *In* the bill, individuals obtaining the integrated benefit through PACE and Partnership have responsibilities, rights, and benefits similar to family care enrollees such as contributing to the cost of care according to a formula; complying with divestment and trust rules; and contesting certain matter through a hearing process. \*

The bill imposes requirements on DHS, resource centers, care management organizations, and long-term care districts with respect to administration and implementation of the integrated benefit that are similar to the current requirements for administration and implementation of the family care benefit. For \*

DHS these requirements include implementing a per person monthly rate structure for the costs of the integrated benefit; evaluating the client's opportunity to arrange for, manage, and monitor the integrated benefit; extending quality improvement efforts to the integrated benefit; and ensuring that resource centers and care management organizations establish procedures so an integrated benefit applicant or enrollee may register a grievance. Resource centers must provide information about the integrated benefit and referral services to individuals who are potentially eligible for the integrated benefit. Care management organizations must designate whether they provide the integrated benefit, the family care benefit, or both; accept the reimbursement rate for the integrated benefit, if provided; contract for provision of acute and primary care services with a provider that agrees to accept the reimbursement rate; accept enrollment of a person eligible for the integrated benefit for whom funding is available; provide for the integrated benefit enrollee to manage and monitor the benefit; provide fee-for-service case management service for those who are functionally but not financially eligible for an integrated benefit; and fulfill additional requirements. A long-term care district may provide services related to services available under an integrated benefit. The long-term care district has duties including assuring compliance with the terms of a contract with a care management organization or a resource center. This bill does not eliminate any requirements for DHS, resource centers, care management organizations, or long-term care districts with respect to administration and implementation of family care.

Under current law, the Board on Aging and Long-Term Care must contract to provide advocacy services to actual or potential recipients of the family care benefit in a ratio of one advocate to every 2,500 individuals under age 60 who receive the family care benefit. DHS must allot \$525,000 for the contract to provide advocacy services in each fiscal year. This bill decreases the ratio to one advocate to every 3,500 individuals under age 60 who receive either family care or the integrated benefit through PACE or Partnership. The bill eliminates the requirement for DHS to allot money for the contract.

Under current law, the county pays for services for a developmentally disabled individual if those services are not paid for by the federal government. The county also pays for certain mental health services that are not paid for by the federal government. If the individual receiving services is eligible for medical assistance, DHS will pay for the services not paid for by the federal government. The bill requires that, for individuals receiving the family care benefit, the care management organization pay for services including mental health services covered by family care, provided to developmentally disabled individuals, and not paid for by the federal government.

including mental health services covered by family care

1 INSERT 14-10

2 SECTION 46.286 (3) (c) of the statutes is amended to read:

1           46.286 (3) (c) Within each county and for each client group, par. (a) shall first  
2       apply on the effective date of a contract under which a care management  
3       organization accepts a per person per month payment to provide services under the  
4       family care benefit to eligible persons in that client group in the county. Within 24  
5       36 months after this date, the department shall assure that sufficient capacity exists  
6       within one or more care management organizations to provide the family care benefit  
7       to all entitled persons in that client group in the county.

**History:** 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25, 264, 388; 2007 a. 20.

8           INSERT 18-13

9           **SECTION 9322. Initial applicability; Health Services.** ✓

10          (1) ~~FAMILY CARE ENTITLEMENT~~. The treatment of section 46.286 (3) (c) of the  
11       statutes first applies to care management organizations that implement the family  
12       care benefit on January 1, 2008.

**Dodge, Tamara**

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**From:** Fox, Sabrina E - DOA [Sabrina.Fox@wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 10:04 AM  
**To:** Dodge, Tamara  
**Subject:** FW: LRB Draft: 09-0376/P2 Family care eligibility and expansion, disability ombudsman, intensive treatment program charge-backs, rule-making changes  
**Attachments:** 09-0376/P2.pdf

Hi Tami:  
I have an additional change to be made to this draft.

The Department's request to apply the family care statutes to all managed long term care programs was denied and therefore, the changes in this draft made to reflect that request need to be removed. Current law excludes managed long term care programs that also integrate primary and acute care, Partnership and PACE from provisions – and the decision was made to continue to exclude them from family care statutes, therefore denying the Department's request to include them. All other items included in this draft were approved and can remain included. I have sent the new draft over to the department for their final review. If I get any additional changes, I will forward them on to you.

Please let me know if you have any questions.

Thanks,  
Sabrina

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**From:** Willing, Krista - DOA  
**Sent:** Tuesday, January 20, 2009 11:16 AM  
**To:** Fox, Sabrina E - DOA  
**Subject:** FW: LRB Draft: 09-0376/P2 Family care eligibility and expansion, disability ombudsman, intensive treatment program charge-backs, rule-making changes

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**From:** Duchek, Michael [mailto:Michael.Duchek@legis.wisconsin.gov]  
**Sent:** Tuesday, January 20, 2009 10:57 AM  
**To:** Willing, Krista - DOA  
**Cc:** Gauger, Michelle C - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA  
**Subject:** LRB Draft: 09-0376/P2 Family care eligibility and expansion, disability ombudsman, intensive treatment program charge-backs, rule-making changes

Following is the PDF version of draft 09-0376/P2.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0376/P2

TJD:wli:md

In: 1/23/09

(stays)  
RMNR

DOA:.....Willing, BB0090 - Family care eligibility and expansion, disability ombudsman, intensive treatment program charge-backs, rule-making changes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT <sup>Do Not Gen</sup> relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**LONG-TERM CARE**

Under current law, in certain counties, a person who meets certain functional and financial criteria and who is either a frail elder or a person who is at least 18 years old with a physical disability or a developmental disability is eligible for and may obtain the family care benefit. The family care benefit is financial assistance for long-term care.

Also, currently, an individual may be eligible for the family care benefit if he or she does not meet the functional eligibility requirements for the family care benefit but he or she 1) has a condition that is expected to last at least 90 days or result in death within 12 months, 2) applies within 36 months after the date on which the family care benefit is available in the individual's county of residence, and 3) on the date the family care benefit became available in the individual's county of residence, was a resident of a nursing home or had been receiving long-term care services under certain programs for at least 60 days. This bill eliminates this provision, thus requiring that all individuals meet the functional eligibility requirements to be eligible for family care.

Under current law, DHS must ensure that care management organizations have the capacity to provide the family care benefit within 24 months to all persons in the county who are entitled to it. This bill lengthens the period for ensuring the entitled benefit to 36 months.

Currently, a resource center in a county provides information on the family care benefit to certain individuals, provides functional and financial eligibility screenings to potential family care enrollees, and refers potential family care enrollees to a care management organization. A care management organization administers the family care benefit under a contract with DHS.

This bill allows care management organizations to administer either the Program of All-Inclusive Care for the Elderly (PACE) or the Wisconsin Partnership Program (Partnership), or both, in place of or in addition to the family care benefit. PACE and Partnership offer an integrated benefit, consisting of financial assistance for long-term care and support items, along with financial assistance for either acute or primary medical care or both. Under the bill, individuals obtaining the integrated benefit through PACE and Partnership have responsibilities, rights, and benefits similar to family care enrollees, such as contributing to the cost of care according to a formula; complying with divestment and trust rules; and contesting certain matters through a hearing process.

The bill imposes requirements on DHS, resource centers, care management organizations, and long-term care districts with respect to administration and implementation of the integrated benefit that are similar to the current requirements for administration and implementation of the family care benefit. For DHS these requirements include implementing a per person monthly rate structure for the costs of the integrated benefit; evaluating the client's opportunity to arrange for, manage, and monitor the integrated benefit; extending quality improvement efforts to the integrated benefit; and ensuring that resource centers and care management organizations establish procedures so that an integrated benefit applicant or enrollee may register a grievance. Resource centers must provide information about the integrated benefit and referral services to individuals who are potentially eligible for the integrated benefit. Care management organizations must designate whether they provide the integrated benefit, the family care benefit, or both; accept the reimbursement rate for the integrated benefit, if provided; contract for the provision of acute and primary care services with a provider that agrees to accept the reimbursement rate; accept the enrollment of a person eligible for the integrated benefit for whom funding is available; provide for the integrated benefit enrollee to manage and monitor the benefit; provide fee-for-service case management services for those who are functionally but not financially eligible for an integrated benefit; and fulfill additional requirements. A long-term care district may provide services related to services available under an integrated benefit. The long-term care district has duties including assuring compliance with the terms of a contract with a care management organization or a resource center. The bill does not eliminate any requirements for DHS, resource centers, care management organizations, or long-term care districts with respect to administration and implementation of family care.



Under current law, the Board on Aging and Long-Term Care must contract to provide advocacy services to actual or potential recipients of the family care benefit in a ratio of one advocate to every 2,500 individuals under age 60 who receive the family care benefit. DHS must allot \$525,000 for the contract to provide advocacy services in each fiscal year. This bill decreases the ratio to one advocate to every 3,500 individuals under age 60 who receive either family care or the integrated benefit through PACE or Partnership. The bill eliminates the requirement for DHS to allot money for the contract.

Under current law, the county pays for services for a developmentally disabled individual if those services are not paid for by the federal government. The county also pays for certain mental health services that are not paid for by the federal government. If the individual receiving services is eligible for medical assistance, DHS will pay for the services not paid for by the federal government. This bill requires that, for individuals receiving the family care benefit, the care management organization pay for services provided to developmentally disabled individuals, including mental health services covered by family care.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 16.009 (2) (p) (intro.) of the statutes is amended to read:

2       16.009 (2) (p) (intro.) Employ staff within the classified service or contract with  
3       one or more organizations to provide advocacy services to potential or actual  
4       recipients of the family care benefit, as defined in s. 46.2805 (4), or of an integrated  
5       benefit, as defined in s. 46.2805 (7h), or their families or guardians. The board and  
6       contract organizations under this paragraph shall assist these persons in protecting  
7       their rights under all applicable federal statutes and regulations and state statutes  
8       and rules. An organization with which the board contracts for these services may not  
9       be a provider, nor an affiliate of a provider, of long-term care services, a resource  
10      center under s. 46.283 or a care management organization under s. 46.284. For  
11      potential or actual recipients of the family care benefit or an integrated benefit,  
12      advocacy services required under this paragraph shall include all of the following:

13      **SECTION 2.** 16.009 (2) (p) 5. of the statutes is amended to read:

1 16.009 (2) (p) 5. Providing individual case advocacy services in administrative  
2 hearings and legal representation for judicial proceedings regarding family care  
3 services or benefits or an integrated benefit.

4 **SECTION 3.** 20.435 (7) (g) of the statutes is amended to read:

5 20.435 (7) (g) *Long-term care; county contributions.* All moneys received from  
6 counties as contributions to the family care program under s. 46.2805 to 46.2895, the  
7 Pace program Program of All-Inclusive Care for the Elderly, as described under s.  
8 46.2805 (1) (a) 46.2805 (9m), and the Wisconsin Partnership Program described  
9 under s. 46.2805 (1) (b) 46.2805 (15), to fund services under the family care benefit  
10 under s. 46.284 (5) and services under the Pace Program of All-Inclusive Care for the  
11 Elderly and the Wisconsin Partnership programs Program.

12 **SECTION 4.** 46.2803 (2) of the statutes is amended to read:

13 46.2803 (2) Notwithstanding s. 46.27 (7), a county in which a care management  
14 organization is operating pursuant to a contract under s. 46.284 (2) or a county in  
15 which a program described under s. 46.2805 (1) (a) or (b) 46.2805 (9m) or (15) is  
16 administered may use funds appropriated under 20.435 (7) (bd) and allocated to the  
17 county under s. 46.27 (7) to provide community mental health or substance abuse  
18 services and supports for persons with mental illness or persons in need of services  
19 or supports for substance abuse and to provide services under the Family Support  
20 Program under s. 46.985.

21 **SECTION 5.** 46.2805 (1) (intro.) of the statutes is renumbered 46.2805 (1) and  
22 amended to read:

23 46.2805 (1) "Care management organization" means an entity that is certified  
24 as meeting the requirements for a care management organization under s. 46.284 (3)  
25 and that has a contract under s. 46.284 (2). "Care management organization" does

1 ~~not mean an entity that contracts with the department or a contract to operate one~~  
2 ~~of the following: to provide the family care benefit, an integrated benefit, or both.~~

3 **SECTION 6.** 46.2805 (1) (a) of the statutes is repealed.

4 **SECTION 7.** 46.2805 (1) (b) of the statutes is repealed.

5 **SECTION 8.** 46.2805 (7h) of the statutes is created to read:

6 46.2805 (7h) "Integrated benefit" means financial assistance for long-term  
7 care and support items, along with financial assistance for either acute or primary  
8 medical care or both for an enrollee.

9 **SECTION 9.** 46.2805 (9m) of the statutes is created to read:

10 46.2805 (9m) "Program of All-Inclusive Care for the Elderly" means the  
11 program operated under 42 USC 1395eee or 1396u-4 providing an integrated  
12 benefit.

13 **SECTION 10.** 46.2805 (15) of the statutes is created to read:

14 46.2805 (15) "Wisconsin Partnership Program" means a Medical Assistance  
15 demonstration program providing an integrated benefit.

16 **SECTION 11.** 46.281 (1d) of the statutes is amended to read:

17 46.281 (1d) WAIVER REQUEST. The department shall request from the secretary  
18 of the federal department of health and human services any waivers of federal  
19 medicaid laws necessary to permit the use of federal moneys to provide the family  
20 care benefit or an integrated benefit to recipients of medical assistance. The  
21 department shall implement any waiver that is approved and that is consistent with  
22 ss. 46.2805 to 46.2895. Regardless of whether a waiver is approved, the department  
23 may implement operation of resource centers, care management organizations, and  
24 the family care benefit, and an integrated benefit.

25 **SECTION 12.** 46.281 (1g) (a) of the statutes is amended to read:

1       46.281 (1g) (a) Subject to par. (b), the department may contract with entities  
2       as provided under s. 46.283 (2) to provide the services under s. 46.283 (3) and (4) as  
3       resource centers in any geographic area in the state, and may contract with entities  
4       as provided under s. 46.284 (2) to administer the family care benefit, an integrated  
5       benefit, or both as care management organizations in any geographic area in the  
6       state.

7       **SECTION 13.** 46.281 (1g) (b) of the statutes is amended to read:

8       46.281 (1g) (b) If the department proposes to contract with entities to  
9       administer the family care benefit or an integrated benefit in geographic areas in  
10      which, in the aggregate, resides more than 29 percent of the state population that  
11      is eligible for the family care benefit or an integrated benefit, the department shall  
12      first notify the joint committee on finance in writing of the proposed contract. The  
13      notification shall include the contract proposal; and an estimate of the fiscal impact  
14      of the proposed addition that demonstrates that the addition will be cost neutral,  
15      including startup, transitional, and ongoing operational costs and any proposed  
16      county contribution. The notification shall also include, for each county affected by  
17      the proposal, documentation that the county consents to administration of the family  
18      care benefit, an integrated benefit, or both in the county, the amount of the county's  
19      payment or reduction in community aids under s. 46.281 (4), and a proposal by the  
20      county for using any savings in county expenditures on long-term care that result  
21      from administration of the family care benefit or integrated benefit in the county.  
22      If the cochairpersons of the committee do not notify the department within 14  
23      working days after the date of the department's notification that the committee has  
24      scheduled a meeting for the purpose of reviewing the proposed contract, the  
25      department may enter into the proposed contract. If within 14 working days after

1 the date of the department's notification the cochairpersons of the committee notify  
2 the department that the committee has scheduled a meeting for the purpose of  
3 reviewing the proposed contract, the department may enter into the proposed  
4 contract only if the committee approves the proposed contract or if the committee  
5 fails to act on the proposed contract within 59 working days after the date of the  
6 department's notification.

7 **SECTION 14.** 46.281 (1n) (a) of the statutes is amended to read:

8 46.281 (1n) (a) Prescribe and implement a per person monthly rate structure  
9 for costs of the family care benefit and an integrated benefit.

10 **SECTION 15.** 46.281 (1n) (b) 3. of the statutes is amended to read:

11 46.281 (1n) (b) 3. Conduct ongoing evaluations of managed care programs for  
12 provision of long-term care services that are funded by medical assistance, as  
13 defined in s. 46.278 (1m) (b), as to client access to services, the availability of client  
14 choice of living and service options, quality of care, and cost-effectiveness. In  
15 evaluating the availability of client choice, the department shall evaluate the  
16 opportunity for a client to arrange for, manage, and monitor his or her family care  
17 benefit or integrated benefit directly or with assistance, as specified in s. 46.284 (4)  
18 (e).

19 **SECTION 16.** 46.281 (1n) (b) 4. of the statutes is amended to read:

20 46.281 (1n) (b) 4. Require that quality assurance and quality improvement  
21 efforts be included throughout ~~the long-term care system specified in ss. 46.2805 to~~  
22 ~~46.2895~~ family care benefit or integrated benefit services.

23 **SECTION 17.** 46.281 (1n) (c) of the statutes is amended to read:

24 46.281 (1n) (c) Require by contract that resource centers and care management  
25 organizations establish procedures under which an individual who applies for or

1 receives the family care benefit or an integrated benefit may register a complaint or  
2 grievance and procedures for resolving complaints and grievances.

3 **SECTION 18.** 46.281 (1n) (e) of the statutes is amended to read:

4 46.281 (1n) (e) Contract with a person to provide the advocacy services  
5 described under s. 16.009 (2) (p) 1. to actual or potential recipients of the family  
6 care benefit or an integrated benefit who are under age 60 or to their families or  
7 guardians. The department may not contract under this paragraph with a county  
8 or with a person who has a contract with the department to provide services under  
9 s. 46.283 (3) and (4) as a resource center or to administer the family care benefit or  
10 an integrated benefit as a care management organization. The contract under this  
11 paragraph shall include as a goal that the provider of advocacy services provide one  
12 advocate for every 2,500 3,500 individuals under age 60 who receive the family care  
13 or an integrated benefit. The department shall allocate \$190,000 for the contract  
14 under this paragraph in fiscal year 2007-08 and \$525,000 in each subsequent fiscal  
15 year.

16 **SECTION 19.** 46.2825 (2) (a) of the statutes is amended to read:

17 46.2825 (2) (a) Evaluate the performance of care management organizations  
18 ~~and entities that operate a program described under s. 46.2805 (1) (a) or (b) in the~~  
19 committee's region with respect to responsiveness to recipients of their services,  
20 fostering choices for recipients, and other issues affecting recipients; and make  
21 recommendations based on the evaluation to the department and to the care  
22 management organizations and entities, as appropriate.

23 **SECTION 20.** 46.2825 (2) (c) of the statutes is amended to read:

1           46.2825 (2) (c) Monitor grievances and appeals made to care management  
2           organizations ~~or entities that operate a program described under s. 46.2805 (1) (a)~~  
3           ~~or (b)~~ within the committee's region.

4           **SECTION 21.** 46.283 (1) (a) 1. of the statutes is amended to read:

5           46.283 (1) (a) 1. Whether to authorize one or more county departments under  
6           s. 46.21, 46.215, 46.22 or 46.23 or an aging unit under s. 46.82 (1) (a) 1. or 2. to apply  
7           to the department for a contract to operate a resource center and, if so, which to  
8           authorize ~~and, what client group to serve, and whether to provide the family care~~  
9           benefit, an integrated benefit, or both.

10          **SECTION 22.** 46.283 (3) (f) of the statutes is amended to read:

11          46.283 (3) (f) Assistance to a person who is eligible for the family care benefit  
12          or an integrated benefit with respect to the person's choice of whether ~~or not~~ to enroll  
13          in a care management organization and, if so, which available care management  
14          organization would best meet his or her needs.

15          **SECTION 23.** 46.283 (4) (e) of the statutes is amended to read:

16          46.283 (4) (e) Provide information about the services of the resource center,  
17          including the services specified in sub. (3) (d), about assessments under s. 46.284 (4)  
18          (b) and care plans under s. 46.284 (4) (c) and about the family care benefit and an  
19          integrated benefit, if available in the area, to all older persons and persons with a  
20          physical disability who are residents of nursing homes, community-based  
21          residential facilities, adult family homes, and residential care apartment complexes  
22          in the area of the resource center.

23          **SECTION 24.** 46.283 (6) (a) 3. of the statutes is amended to read:

24          46.283 (6) (a) 3. An individual who has a financial interest in, or serves on the  
25          governing board of, a care management organization ~~or an organization that~~

1 ~~administers a program described under s. 46.2805 (1) (a) or (b) or a managed care~~  
2 ~~program under s. 49.45 for individuals who are eligible to receive supplemental~~  
3 ~~security income under 42 USC 1381 to 1383c, which serves any geographic area also~~  
4 ~~served by a resource center, and the individual's family members, may not serve as~~  
5 ~~members of the governing board of the resource center.~~

6 **SECTION 25.** 46.284 (1) (a) 1. of the statutes is amended to read:

7 46.284 (1) (a) 1. Whether to authorize one or more county departments under  
8 s. 46.21, 46.215, 46.22 or 46.23 or an aging unit under s. 46.82 (1) (a) 1. or 2. to apply  
9 to the department for a contract to operate a care management organization and, if  
10 so, which to authorize and, what client group to serve, and whether to provide the  
11 family care benefit, an integrated benefit, or both.

12 **SECTION 26.** 46.284 (1) (b) of the statutes is amended to read:

13 46.284 (1) (b) The governing body of a tribe or band or of the Great Lakes  
14 Inter-Tribal Council, Inc., may decide whether to authorize a tribal agency to apply  
15 to the department for a contract to operate a care management organization for tribal  
16 members and, if so, which client group to serve and whether to provide the family  
17 care benefit, an integrated benefit, or both.

18 **SECTION 27.** 46.284 (2) (c) of the statutes is renumbered 46.284 (2) (c) (intro.)  
19 and amended to read:

20 46.284 (2) (c) (intro.) The department shall require, as a term of any contract  
21 with a care management organization under this section, that all of the following:

22 2. That the care management organization contract for the provision of  
23 long-term care services that are covered under the family care or integrated benefit  
24 with any community-based residential facility under s. 50.01 (1g), residential care  
25 apartment complex under s. 50.01 (1d), nursing home under s. 50.01 (3),



1 intermediate care facility for the mentally retarded under s. 50.14 (1) (b), community  
2 rehabilitation program, home health agency under s. 50.49 (1) (a), provider of day  
3 services, or provider of personal care, as defined in s. 50.01 (4o), that agrees to accept  
4 the reimbursement rate that the care management organization pays under contract  
5 to similar providers for the same service and that satisfies any applicable quality of  
6 care, utilization, or other criteria that the care management organization requires  
7 of other providers with which it contracts to provide the same service.

8 **SECTION 28.** 46.284 (2) (c) 1. of the statutes is created to read:

9 46.284 (2) (c) 1. That the care management organization designate whether it  
10 provides the family care benefit, an integrated benefit, or both.

11 **SECTION 29.** 46.284 (2) (c) 3. of the statutes is created to read:

12 46.284 (2) (c) 3. That the care management organization contract for the  
13 provision of acute and primary care services covered under an integrated benefit  
14 with a provider that agrees to accept the reimbursement rate the care management  
15 organization pays under contract to similar providers for the same service and that  
16 satisfies any applicable quality of care, utilization, or other criteria the care  
17 management organization requires of other providers with which it contracts to  
18 provide the same service.

19 **SECTION 30.** 46.284 (4) (a) of the statutes is amended to read:

20 46.284 (4) (a) Accept requested enrollment of any person who is entitled to the  
21 family care benefit and of any person for whom funding is available and who is  
22 eligible for the family care benefit and for whom funding is available or an integrated  
23 benefit, whichever the care management organization is contracted to provide. No  
24 care management organization may disenroll any enrollee, except under  
25 circumstances specified by the department by contract. No care management

1 organization may encourage any enrollee to disenroll in order to obtain long-term  
2 care services under the medical assistance fee-for-service system. No involuntary  
3 disenrollment is effective unless the department has reviewed and approved it.

4 **SECTION 31.** 46.284 (4) (e) of the statutes is amended to read:

5 46.284 (4) (e) Provide, within guidelines established by the department, a  
6 mechanism by which an enrollee may arrange for, manage, and monitor his or her  
7 family care benefit or an integrated benefit directly or with the assistance of another  
8 person chosen by the enrollee. The care management organization shall provide  
9 each enrollee with a form on which the enrollee shall indicate whether he or she has  
10 been offered the option under this paragraph and whether he or she has accepted or  
11 declined the option. If the enrollee accepts the option, the care management  
12 organization shall monitor the enrollee's use of a fixed budget for purchase of services  
13 or support items from any qualified provider, monitor the health and safety of the  
14 enrollee, and provide assistance in management of the enrollee's budget and services  
15 at a level tailored to the enrollee's need and desire for the assistance.

16 **SECTION 32.** 46.284 (4) (f) of the statutes is amended to read:

17 46.284 (4) (f) Provide, on a fee-for-service basis, case management services to  
18 persons who are functionally eligible but not financially eligible for the family care  
19 benefit or an integrated benefit.

20 **SECTION 33.** 46.284 (5) (a) of the statutes is amended to read:

21 46.284 (5) (a) From the appropriation accounts under s. 20.435 (4) (b), (g), (gp),  
22 (im), (o), and (w) and (7) (b), (bd), and (g), the department shall provide funding on  
23 a capitated payment basis for the provision of services under this section.  
24 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is  
25 under contract with the department may expend the funds, consistent with this

1 section, including providing payment, on a capitated basis, to providers of services  
2 under the family care benefit or an integrated benefit.

3 **SECTION 34.** 46.284 (5) (d) 4. of the statutes is amended to read:

4 46.284 (5) (d) 4. The requirement that a care management organization place  
5 funds in a risk reserve and maintain the risk reserve in an interest-bearing escrow  
6 account with a financial institution, as defined in s. 69.30 (1) (b), or invest funds as  
7 specified in s. 46.2895 (4) (j) 2. or 3. Moneys in the risk reserve or invested as specified  
8 in this subdivision may be expended only for the provision of services under this  
9 section. If a care management organization ceases participation under this section,  
10 the funds in the risk reserve or invested as specified in this subdivision, minus any  
11 contribution of moneys other than those specified in par. (c), shall be returned to the  
12 department. The department shall expend the moneys for the payment of  
13 outstanding debts to providers of family care benefit or integrated benefit services  
14 and for the continuation of family care benefit and integrated benefit services to  
15 enrollees.

16 **SECTION 35.** 46.284 (5) (e) 1. of the statutes is amended to read:

17 46.284 (5) (e) 1. Subject to subd. 2., a care management organization may enter  
18 into contracts with providers of family care benefit or integrated benefit services and  
19 may limit profits of the providers under the contracts.

20 **SECTION 36.** 46.286 (title) of the statutes is amended to read:

21 **46.286 (title) Family care benefit and integrated benefit.**

22 **SECTION 37.** 46.286 (1) (title) of the statutes is repealed and recreated to read:

23 46.286 (1) (title) FAMILY CARE ELIGIBILITY.

24 **SECTION 38.** 46.286 (1) (a) (intro.) and **46.286 (1) (a)** 1. (intro.) of the statutes  
25 are consolidated, renumbered 46.286 (1) (a) (intro.) and amended to read:

1           46.286 (1) (a) *Functional eligibility.* (intro.) A person is functionally eligible  
2 if ~~any of the following applies the person's level of care need~~, as determined by the  
3 department or its designee: ~~1. (intro.) The person's level of care need~~, is either of the  
4 following:

5           **SECTION 39.** 46.286 (1) (a) 1. a. of the statutes is renumbered 46.286 (1) (a) 1m.

6           **SECTION 40.** 46.286 (1) (a) 1. b. of the statutes is renumbered 46.286 (1) (a) 2m.

7           **SECTION 41.** 46.286 (1) (a) 2. (intro.) of the statutes is repealed.

8           **SECTION 42.** 46.286 (1) (a) 2. a. of the statutes is renumbered 46.286 (3) (b) 2.

9           a.

10          **SECTION 43.** 46.286 (1) (a) 2. b. of the statutes is renumbered 46.286 (3) (b) 2.

11          b.

12          **SECTION 44.** 46.286 (1) (a) 2. c. of the statutes is renumbered 46.286 (3) (b) 2.

13          c.

14          **SECTION 45.** 46.286 (1) (a) 2. d. of the statutes is renumbered 46.286 (3) (b) 2.

15          d.

16          **SECTION 46.** 46.286 (1) (a) 2. e. of the statutes is renumbered 46.286 (3) (b) 2.

17          e.

18          **SECTION 47.** 46.286 (2) (a) of the statutes is amended to read:

19           46.286 (2) (a) A person who is determined to be financially eligible under sub-  
20 ~~(1) (b) for family care, the Program of All-Inclusive Care for the Elderly, or the~~  
21 Wisconsin Partnership Program shall contribute to the cost of his or her care an  
22 amount that is calculated by the department or its designee after subtracting from  
23 the person's gross income, plus one-twelfth of countable assets, the deductions and  
24 allowances permitted by the department by rule.

25          **SECTION 48.** 46.286 (2) (b) of the statutes is amended to read:

1       46.286 (2) (b) Funds received under par. (a) shall be used by a care management  
2       organization to pay for services under the family care benefit, the Program of  
3       All-Inclusive Care for the Elderly, or the Wisconsin Partnership Program from  
4       whichever program the person is receiving services.

5       **SECTION 49.** 46.286 (2) (c) of the statutes is amended to read:

6       46.286 (2) (c) A person who is required to contribute to the cost of his or her care  
7       but who fails to make the required contributions is ineligible for the family care  
8       benefit, the Program of All-Inclusive Care for the Elderly, and the Wisconsin  
9       Partnership Program unless he or she is exempt from the requirement under rules  
10      promulgated by the department.

11      **SECTION 50.** 46.286 (3) (title) of the statutes is repealed and recreated to read:

12      46.286 (3) (title) FAMILY CARE ENTITLEMENT.

13      **SECTION 51.** 46.286 (3) (b) 2. of the statutes is renumbered 46.286 (3) (b) 2.  
14      (intro.) and amended to read:

15      46.286 (3) (b) 2. (intro.) If the contract between the care management  
16      organization and the department is canceled or not renewed. If this circumstance  
17      occurs, the department shall assure that enrollees continue to receive needed  
18      services through another care management organization or through the medical  
19      assistance fee-for-service system or any of the following programs specified under  
20      sub. (1) (a) 2. a. to d.;

21      **SECTION 52.** 46.286 (3) (c) of the statutes is amended to read:

22      46.286 (3) (c) Within each county and for each client group, par. (a) shall first  
23      apply on the effective date of a contract under which a care management  
24      organization accepts a per person per month payment to provide services under the  
25      family care benefit to eligible persons in that client group in the county. Within 24

1     36 months after this date, the department shall assure that sufficient capacity exists  
2     within one or more care management organizations to provide the family care benefit  
3     to all entitled persons in that client group in the county.

4     **SECTION 53.** 46.286 (3m) of the statutes is amended to read:

5     **46.286 (3m) INFORMATION ABOUT ENROLLEES.** The department shall obtain and  
6     share information about family care benefit and integrated benefit enrollees as  
7     provided in s. 49.475.

8     **SECTION 54.** 46.286 (4) of the statutes is amended to read:

9     **46.286 (4) DIVESTMENT; RULES.** The department shall promulgate rules, which  
10    are substantially similar to applicable provisions under s. 49.453, relating to  
11    prohibitions on divestment of assets of persons who receive the family care benefit,  
12    ~~that are substantially similar to applicable provisions under s. 49.453 or an~~  
13    integrated benefit.

14    **SECTION 55.** 46.286 (5) of the statutes is amended to read:

15    **46.286 (5) TREATMENT OF TRUST AMOUNTS; RULES.** The department shall  
16    promulgate rules, which are substantially similar to applicable provisions under s.  
17    49.454, relating to treatment of trust amounts of persons who receive the family care  
18    benefit, ~~that are substantially similar to applicable provisions under s. 49.454 or an~~  
19    integrated benefit.

20    **SECTION 56.** 46.286 (6) of the statutes is amended to read:

21    **46.286 (6) PROTECTION OF INCOME AND RESOURCES OF COUPLE FOR MAINTENANCE**  
22    **OF COMMUNITY SPOUSE; RULES.** The department shall promulgate rules, which are  
23    substantially similar to applicable provisions under s. 49.455 relating to protection  
24    of income and resources of couples for the maintenance of the spouse in the  
25    community with regard to persons who receive the family care benefit, ~~that are~~

→ \*\*\*\*Note: Do you still  
want to change the deadline?  
I don't believe this was part  
of the original request.

1 ~~substantially similar to applicable provisions under s. 49.455 or an integrated~~  
2 ~~benefit.~~

3 **SECTION 57.** 46.286 (7) of the statutes is amended to read:

4 46.286 (7) RECOVERY OF FAMILY CARE BENEFIT PAYMENTS; RULES. The department  
5 shall promulgate rules, which are substantially similar to applicable provisions  
6 under ss. 49.496 and 49.497, relating to the recovery from persons who receive the  
7 family care benefit, including by liens and from estates, of correctly and incorrectly  
8 paid family care benefits ~~that are substantially similar to applicable provisions~~  
9 ~~under ss. 49.496 and 49.497 and integrated benefits.~~

10 **SECTION 58.** 46.287 (1) of the statutes is amended to read:

11 46.287 (1) DEFINITION. In this section, "client" means a person applying for  
12 eligibility for the family care benefit or an integrated benefit, an eligible person, or  
13 an enrollee.

14 **SECTION 59.** 46.287 (2) (a) 1. e. of the statutes is amended to read:

15 46.287 (2) (a) 1. e. Reduction of services or support items under the family care  
16 benefit or an integrated benefit.

17 **SECTION 60.** 46.287 (2) (a) 1. g. of the statutes is amended to read:

18 46.287 (2) (a) 1. g. Termination of the family care benefit or an integrated  
19 benefit.

20 **SECTION 61.** 46.287 (2) (a) 1. h. of the statutes is amended to read:

21 46.287 (2) (a) 1. h. Imposition of ineligibility for the family care benefit or an  
22 integrated benefit under s. 46.286 (4).

23 **SECTION 62.** 46.287 (2) (a) 1. k. of the statutes is amended to read:

24 46.287 (2) (a) 1. k. Recovery of family care benefit or integrated benefit  
25 payments under s. 46.286 (7).

**SECTION 63.** 46.288 (2) (intro.) of the statutes is amended to read:

46.288 (2) (intro.) Criteria and procedures for determining functional eligibility under s. 46.286 (1) (a), financial eligibility under s. 46.286 (1) (b), and cost sharing under s. 46.286 (2) (a). The rules for determining functional eligibility under s. 46.286 (1) (a) ~~1. a.~~ 1m. shall be substantially similar to eligibility criteria for receipt of the long-term support community options program under s. 46.27. Rules under this subsection shall include definitions of the following terms applicable to s. 46.286:

**SECTION 64.** 46.288 (2) (a) of the statutes is repealed.

**SECTION 65.** 46.288 (2) (b) of the statutes is repealed.

**SECTION 66.** 46.288 (2) (c) of the statutes is repealed.

**SECTION 67.** 46.2895 (1) (a) 1. b. of the statutes is amended to read:

46.2895 (1) (a) 1. b. Specifies the long-term care district's primary purpose, which shall be to operate, under contract with the department, a resource center under s. 46.283, or a care management organization under s. 46.284, ~~or a program described under s. 46.2805 (1) (a) or (b).~~

**SECTION 68.** 46.2895 (1) (c) of the statutes is amended to read:

46.2895 (1) (c) A long-term care district may not operate a care management organization under s. 46.284 ~~or a program described under s. 46.2805 (1) (a) or (b)~~ if the district operates a resource center under s. 46.283.

**SECTION 69.** 46.2895 (4) (b) of the statutes is amended to read:

46.2895 (4) (b) Adopt bylaws and policies and procedures for the regulation of its affairs and the conduct of its business. The bylaws, policies and procedures shall be consistent with ss. 46.2805 to 46.2895 and, if the long-term care district contracts with the department under par. (d) ~~or (dm)~~, with the terms of that contract.

**SECTION 70.** 46.2895 (4) (dm) of the statutes is repealed.



**SECTION 71.** 46.2895 (4) (e) of the statutes is amended to read:

46.2895 (4) (e) Provide services related to services available under the family care benefit or an integrated benefit, to older persons and persons with disabilities, in addition to the services funded under the contract with the department that is specified under par. (d).

**SECTION 72.** 46.2895 (6) (c) of the statutes is amended to read:

46.2895 (6) (c) Assure compliance with the terms of any contract with the department under sub. (4) (d) ~~or (dm)~~.

**SECTION 73.** 49.45 (30m) (am) of the statutes is renumbered 49.45 (30m) (am)

1.

**SECTION 74.** 49.45 (30m) (am) 2. of the statutes is created to read:

49.45 (30m) (am) 2. For individuals receiving the family care benefit under s. 46.286, the care management organization that manages the family care benefit for the recipient shall pay the portion of the payment that is not covered by the federal government for services that are described under par. (a) 1. and are covered services under the family care benefit; the department shall pay the remainder of the portion of the payment that is not covered by the federal government.

**SECTION 75.** 49.475 (1) (e) 2. of the statutes is amended to read:

49.475 (1) (e) 2. An enrollee of family care, the Program of All-Inclusive Care for the Elderly, as defined in s. 46.2805 (9m), or the Wisconsin Partnership Program, as defined in s. 46.2805 (15).

**SECTION 76.** 50.49 (6m) (b) of the statutes is repealed.

**SECTION 77.** 50.49 (6m) (c) of the statutes is repealed.

**SECTION 78.** 51.437 (4rm) (d) of the statutes is created to read:

(1) FAMILY CARE ENTITLEMENT. The treatment of section 46.286 (3) (c) of the statutes first applies to care management organizations that implement the family care benefit on January 1, 2008.

(END)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0376/P3

TJD:wlj:ph

In: 1/30/09

RmNR

DOA:.....Willing, BB0090 - Family care eligibility, disability ombudsman, intensive treatment program charge-backs, rule-making changes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1

*Do Not Gen*  
AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**LONG-TERM CARE**

Under current law, in certain counties, a person who meets certain functional and financial criteria and who is either a frail elder or a person who is at least 18 years old with a physical disability or a developmental disability is eligible for and may obtain the family care benefit. The family care benefit is financial assistance for long-term care.

Also, currently, an individual may be eligible for the family care benefit if he or she does not meet the functional eligibility requirements for the family care benefit but he or she 1) has a condition that is expected to last at least 90 days or result in death within 12 months, 2) applies within 36 months after the date on which the family care benefit is available in the individual's county of residence, and 3) on the date the family care benefit became available in the individual's county of residence, was a resident of a nursing home or had been receiving long-term care services under certain programs for at least 60 days. This bill eliminates this provision, thus requiring that all individuals meet the functional eligibility requirements to be eligible for family care.

Under current law, a care management organization administers the family care benefit under a contract with DHS. DHS must ensure that care management organizations have the capacity to provide the family care benefit within 24 months to all persons in the county who are entitled to it. This bill lengthens the period for ensuring the entitled benefit to 36 months.

Under current law, the Board on Aging and Long-Term Care must contract to provide advocacy services to actual or potential recipients of the family care benefit in a ratio of one advocate to every 2,500 individuals under age 60 who receive the family care benefit. DHS must allot \$525,000 for the contract to provide advocacy services in each fiscal year. This bill decreases the ratio to one advocate to every 3,500 individuals under age 60 who receive the family care benefit. The bill eliminates the requirement for DHS to allot money for the contract.

Under current law, the county pays for services for a developmentally disabled individual if those services are not paid for by the federal government. The county also pays for certain mental health services that are not paid for by the federal government. If the individual receiving services is eligible for medical assistance, DHS will pay for the services not paid for by the federal government. This bill requires that, for individuals receiving the family care benefit, the care management organization pay for services provided to developmentally disabled individuals, including mental health services covered by family care.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 46.281 (1n) (e) of the statutes is amended to read:

2       46.281 (1n) (e) Contract with a person to provide the advocacy services  
3       described under s. 16.009 (2) (p) 1. to 5. to actual or potential recipients of the family  
4       care benefit who are under age 60 or to their families or guardians. The department  
5       may not contract under this paragraph with a county or with a person who has a  
6       contract with the department to provide services under s. 46.283 (3) and (4) as a  
7       resource center or to administer the family care benefit as a care management  
8       organization. The contract under this paragraph shall include as a goal that the  
9       provider of advocacy services provide one advocate for every 2,500 3,500 individuals  
10      under age 60 who receive the family care benefit. ~~The department shall allocate~~

1     ~~\$190,000 for the contract under this paragraph in fiscal year 2007-08 and \$525,000~~  
2     ~~in each subsequent fiscal year.~~

3           **SECTION 2.** 46.286 (1) (a) (intro.) and 1. (intro.) of the statutes are consolidated,  
4     renumbered 46.286 (1) (a) (intro.) and amended to read:

5           46.286 (1) (a) *Functional eligibility.* (intro.) A person is functionally eligible  
6     if ~~any of the following applies the person's level of care need~~, as determined by the  
7     department or its designee; ~~1. (intro.) The person's level of care need~~, is either of the  
8     following:

9           **SECTION 3.** 46.286 (1) (a) 1. a. of the statutes is renumbered 46.286 (1) (a) 1m.

10          **SECTION 4.** 46.286 (1) (a) 1. b. of the statutes is renumbered 46.286 (1) (a) 2m.

11          **SECTION 5.** 46.286 (1) (a) 2. (intro.) of the statutes is repealed.

12          **SECTION 6.** 46.286 (1) (a) 2. a. of the statutes is renumbered 46.286 (3) (b) 2. a.

13          **SECTION 7.** 46.286 (1) (a) 2. b. of the statutes is renumbered 46.286 (3) (b) 2. b.

14          **SECTION 8.** 46.286 (1) (a) 2. c. of the statutes is renumbered 46.286 (3) (b) 2. c.

15          **SECTION 9.** 46.286 (1) (a) 2. d. of the statutes is renumbered 46.286 (3) (b) 2. d.

16          **SECTION 10.** 46.286 (1) (a) 2. e. of the statutes is renumbered 46.286 (3) (b) 2.

17     e.

18          **SECTION 11.** 46.286 (3) (b) 2. of the statutes is renumbered 46.286 (3) (b) 2.  
19     (intro.) and amended to read:

20           46.286 (3) (b) 2. (intro.) If the contract between the care management  
21     organization and the department is canceled or not renewed. If this circumstance  
22     occurs, the department shall assure that enrollees continue to receive needed  
23     services through another care management organization or through the medical  
24     assistance fee-for-service system or any of the following programs specified under  
25     ~~sub. (1) (a) 2. a. to d.:~~

**SECTION 12.** 46.286 (3) (c) of the statutes is amended to read:

46.286 (3) (c) Within each county and for each client group, par. (a) shall first apply on the effective date of a contract under which a care management organization accepts a per person per month payment to provide services under the family care benefit to eligible persons in that client group in the county. Within 24 36 months after this date, the department shall assure that sufficient capacity exists within one or more care management organizations to provide the family care benefit to all entitled persons in that client group in the county.

\*\*\*\*NOTE: Do you still want to change the deadline? I don't believe this was part of the original request.

**SECTION 13.** 46.288 (2) (intro.) of the statutes is amended to read:

46.288 (2) (intro.) Criteria and procedures for determining functional eligibility under s. 46.286 (1) (a), financial eligibility under s. 46.286 (1) (b), and cost sharing under s. 46.286 (2) (a). The rules for determining functional eligibility under s. 46.286 (1) (a) ~~1-a-~~ 1m. shall be substantially similar to eligibility criteria for receipt of the long-term support community options program under s. 46.27. Rules under this subsection shall include definitions of the following terms applicable to s. 46.286:

**SECTION 14.** 46.288 (2) (a) of the statutes is repealed.

**SECTION 15.** 46.288 (2) (b) of the statutes is repealed.

**SECTION 16.** 46.288 (2) (c) of the statutes is repealed.

**SECTION 17.** 49.45 (30m) (am) of the statutes is renumbered 49.45 (30m) (am)

1.

**SECTION 18.** 49.45 (30m) (am) 2. of the statutes is created to read:

49.45 (30m) (am) 2. For individuals receiving the family care benefit under s. 46.286, the care management organization that manages the family care benefit for

1 the recipient shall pay the portion of the payment that is not covered by the federal  
2 government for services that are described under par. (a) 1. and are covered services  
3 under the family care benefit; the department shall pay the remainder of the portion  
4 of the payment that is not covered by the federal government.

5 **SECTION 19.** 51.437 (4rm) (d) of the statutes is created to read:

6 51.437 (~~4rm~~) (d) Notwithstanding pars. (a) to (c), for individuals receiving the  
7 family care benefit under s. 46.286, the care management organization that manages  
8 the family care benefit for the recipient shall pay the portion of the payment that is  
9 for services that are covered under the family care benefit; the department shall pay  
10 the remainder of the payment.

11 **SECTION 9322. Initial applicability; Health Services.**

12 (1) FAMILY CARE ENTITLEMENT. The treatment of section 46.286 (3) (c) of the  
13 statutes first applies to care management organizations that implement the family  
14 care benefit on January 1, 2008.

15 (END)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0376/P4

TJD:wlj:rs

DOA:.....Willing, BB0090 - Family care eligibility, disability ombudsman, intensive treatment program charge-backs, rule-making changes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**LONG-TERM CARE**

Under current law, in certain counties, a person who meets certain functional and financial criteria and who is either a frail elder or a person who is at least 18 years old with a physical disability or a developmental disability is eligible for and may obtain the family care benefit. The family care benefit is financial assistance for long-term care.

Also, currently, an individual may be eligible for the family care benefit if he or she does not meet the functional eligibility requirements for the family care benefit but he or she 1) has a condition that is expected to last at least 90 days or result in death within 12 months, 2) applies within 36 months after the date on which the family care benefit is available in the individual's county of residence, and 3) on the date the family care benefit became available in the individual's county of residence, was a resident of a nursing home or had been receiving long-term care services under certain programs for at least 60 days. This bill eliminates this provision, thus requiring that all individuals meet the functional eligibility requirements to be eligible for family care.



Under current law, a care management organization administers the family care benefit under a contract with DHS. DHS must ensure that care management organizations have the capacity to provide the family care benefit within 24 months to all persons in the county who are entitled to it. This bill lengthens the period for ensuring the entitled benefit to 36 months.

Under current law, the Board on Aging and Long-Term Care must contract to provide advocacy services to actual or potential recipients of the family care benefit in a ratio of one advocate to every 2,500 individuals under age 60 who receive the family care benefit. DHS must allot \$525,000 for the contract to provide advocacy services in each fiscal year. This bill decreases the ratio to one advocate to every 3,500 individuals under age 60 who receive the family care benefit. The bill eliminates the requirement for DHS to allot money for the contract.

Under current law, the county pays for services for a developmentally disabled individual if those services are not paid for by the federal government. The county also pays for certain mental health services that are not paid for by the federal government. If the individual receiving services is eligible for medical assistance, DHS will pay for the services not paid for by the federal government. This bill requires that, for individuals receiving the family care benefit, the care management organization pay for services provided to developmentally disabled individuals, including mental health services covered by family care.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 46.281 (1n) (e) of the statutes is amended to read:

2           46.281 (1n) (e) Contract with a person to provide the advocacy services  
3 described under s. 16.009 (2) (p) 1. to 5. to actual or potential recipients of the family  
4 care benefit who are under age 60 or to their families or guardians. The department  
5 may not contract under this paragraph with a county or with a person who has a  
6 contract with the department to provide services under s. 46.283 (3) and (4) as a  
7 resource center or to administer the family care benefit as a care management  
8 organization. The contract under this paragraph shall include as a goal that the  
9 provider of advocacy services provide one advocate for every 2,500 3,500 individuals  
10 under age 60 who receive the family care benefit. ~~The department shall allocate~~

1     ~~\$190,000 for the contract under this paragraph in fiscal year 2007-08 and \$525,000~~  
2     ~~in each subsequent fiscal year.~~

3           **SECTION 2.** 46.286 (1) (a) (intro.) and 1. (intro.) of the statutes are consolidated,  
4     renumbered 46.286 (1) (a) (intro.) and amended to read:

5           46.286 (1) (a) *Functional eligibility.* (intro.) A person is functionally eligible  
6     if ~~any of the following applies the person's level of care need~~, as determined by the  
7     department or its designee: ~~1. (intro.) The person's level of care need~~, is either of the  
8     following:

9           **SECTION 3.** 46.286 (1) (a) 1. a. of the statutes is renumbered 46.286 (1) (a) 1m.

10          **SECTION 4.** 46.286 (1) (a) 1. b. of the statutes is renumbered 46.286 (1) (a) 2m.

11          **SECTION 5.** 46.286 (1) (a) 2. (intro.) of the statutes is repealed.

12          **SECTION 6.** 46.286 (1) (a) 2. a. of the statutes is renumbered 46.286 (3) (b) 2. a.

13          **SECTION 7.** 46.286 (1) (a) 2. b. of the statutes is renumbered 46.286 (3) (b) 2. b.

14          **SECTION 8.** 46.286 (1) (a) 2. c. of the statutes is renumbered 46.286 (3) (b) 2. c.

15          **SECTION 9.** 46.286 (1) (a) 2. d. of the statutes is renumbered 46.286 (3) (b) 2. d.

16          **SECTION 10.** 46.286 (1) (a) 2. e. of the statutes is renumbered 46.286 (3) (b) 2.

17     e.

18          **SECTION 11.** 46.286 (3) (b) 2. of the statutes is renumbered 46.286 (3) (b) 2.  
19     (intro.) and amended to read:

20          46.286 (3) (b) 2. (intro.) If the contract between the care management  
21     organization and the department is canceled or not renewed. If this circumstance  
22     occurs, the department shall assure that enrollees continue to receive needed  
23     services through another care management organization or through the medical  
24     assistance fee-for-service system or any of the following programs specified under  
25     ~~sub. (1) (a) 2. a. to d.:~~

**SECTION 12.** 46.286 (3) (c) of the statutes is amended to read:

46.286 (3) (c) Within each county and for each client group, par. (a) shall first apply on the effective date of a contract under which a care management organization accepts a per person per month payment to provide services under the family care benefit to eligible persons in that client group in the county. Within 24 36 months after this date, the department shall assure that sufficient capacity exists within one or more care management organizations to provide the family care benefit to all entitled persons in that client group in the county.

**SECTION 13.** 46.288 (2) (intro.) of the statutes is amended to read:

46.288 (2) (intro.) Criteria and procedures for determining functional eligibility under s. 46.286 (1) (a), financial eligibility under s. 46.286 (1) (b), and cost sharing under s. 46.286 (2) (a). The rules for determining functional eligibility under s. 46.286 (1) (a) ~~1-a-~~ 1m. shall be substantially similar to eligibility criteria for receipt of the long-term support community options program under s. 46.27. Rules under this subsection shall include definitions of the following terms applicable to s. 46.286:

**SECTION 14.** 46.288 (2) (a) of the statutes is repealed.

**SECTION 15.** 46.288 (2) (b) of the statutes is repealed.

**SECTION 16.** 46.288 (2) (c) of the statutes is repealed.

**SECTION 17.** 49.45 (30m) (am) of the statutes is renumbered 49.45 (30m) (am)

1.

**SECTION 18.** 49.45 (30m) (am) 2. of the statutes is created to read:

49.45 (30m) (am) 2. For individuals receiving the family care benefit under s. 46.286, the care management organization that manages the family care benefit for the recipient shall pay the portion of the payment that is not covered by the federal government for services that are described under par. (a) 1. and are covered services

1 under the family care benefit; the department shall pay the remainder of the portion  
2 of the payment that is not covered by the federal government.

3 **SECTION 19.** 51.437 (4rm) (d) of the statutes is created to read:

4 51.437 (**4rm**) (d) Notwithstanding pars. (a) to (c), for individuals receiving the  
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13 (END)